

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK BROWN,

Petitioner,

v.

Case No. 06-13906
Honorable David M. Lawson
Magistrate Judge R. Steven Whalen

KENNETH T. McKEE,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S RECOMMENDATION AND
DENYING THE PETITION FOR WRIT OF HABEAS CORPUS**

Presently before the Court is the report and recommendation issued on January 7, 2009 by Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636(b)(1)(B). On September 1, 2008, the petitioner moved for issuance of a writ of habeas corpus, and Magistrate Judge Whalen recommended that this Court deny the issuance of the writ. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The Court sent the original copy of the report and recommendation to the petitioner on January 7, 2009, but the mail was returned because of insufficient postage. On January 21, 2009, the magistrate judge resent the copy of the report and recommendation to the petitioner's address listed on the Offender Tracking Information System, but the petitioner still failed to respond within the time period allowed by the applicable rules.

The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its

duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 15] is **ADOPTED**, and Mr. Brown's petition for writ of habeas corpus [dkt # 1] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 11, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 11, 2009.

s/Felicia M. Moses
FELICIA M. MOSES